Supreme Court, U.S.
FILED
FEB 16 1994
OFFICE OF THE CLERK

IN THE
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1993

No. 92-1384

BARCLAYS BANK PLC,
Petitioner,

v.

FRANCHISE TAX BOARD,
An Agency Of The State Of California,
Respondent.

No. 92-1839

COLGATE-PALMOLIVE COMPANY,
Petitioner,

v.

FRANCHISE TAX BOARD,
An Agency Of The State Of California,
Respondent.

**On Writ of Certiorari To The
Court Of Appeal Of The State Of California
In And For The Third Appellate District**

**SUPPLEMENTAL BRIEF OF
PETITIONERS' IN OPPOSITION TO CALIFORNIA LEGISLATURE'S
MOTION FOR LEAVE TO FILE BRIEF AMICUS CURIAE**

On February 16, 1993 Petitioner Barclays Bank PLC ("Barclays") received a copy of a letter from the Chairman of the Joint Committee on Rules dated December 20, 1993 purportedly authorizing the Legislative Counsel to file a brief in these cases on behalf of the California Legislature.[1/] Appendix A. However, the Chairman of the Joint Rules Committee may not act on behalf of the committee without the authorization by two thirds of the committee membership at an open and public meeting. Cal. Gov't Code §§ 9027, 9028, 9917 (West 1992). No evidence of such authorization was produced. The type of authorization specifically required under Section 10246 of the California Government Code is not before this Court. Thus, there is still no basis for this Court to conclude that the brief filed with movant's motion is an authorized representation of the views of the California Legislature.

Barclays and Colgate-Palmolive Company ("Colgate") hereby renew their opposition to the California Legislature's Motion for Leave to File Brief Amicus Curiae.

Respectfully submitted,

Joanne M. Garvey
Counsel of Record for
Barclays Bank PLC
HELLER, EHRMAN, WHITE & MCAULIFFE
333 Bush Street
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(415) 772-6000

1/ There are no changes to the Rule 29.1 Statements in the above referenced consolidated case since the Briefs of the Petitioners were filed with this Court.

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February 15, 1994

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Attention: Joanne M. Garvey

Barclays Bank PLC v. Franchise Tax Board;
Colgate-Palmolive v. Franchise Tax Board

Dear Ms. Garvey:

Pursuant to the request in your letter dated February 11, 1994, to Mr. Heir, we have enclosed a copy of the letter memorializing the authorization of the Joint Committee on Rules for this office to represent the Legislature, as amicus curiae, in the above-referenced cases.

Very truly yours,

Bion M. Gregory
Legislative Counsel

Jack I. Horton
Chief Deputy

JIH:bjs
Enclosure

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California Legislature

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Sacramento, California
December 20, 1993

Mr. Bion M. Gregory
Legislative Counsel
State Capitol, Suite 3021
Sacramento, California 95814-4996

Dear Mr. Gregory:

Pursuant to Section 10246 of the Government Code, your office is hereby authorized to represent the Legislature, as amicus curiae, in the cases of Barclays Bank PLC v. Franchise Tax Board of California (No. 92-1384) and Colgate-Palmolive Co. v. Franchise Tax Board of California (No. 92-1839) before the United States Supreme Court. The purpose of this representation will be to advise the Court of the development of California's unitary tax law in response to communications from the federal government and the United Kingdom.

Sincerely,

JOHN L. BURTON
Chairman, Joint Committee on Rules

cc:

Honorable Willie L. Brown, Jr.,
Speaker of the Assembly
Honorable David Roberti,
President pro Tempore of the Senate
Honorable James L. Brulte
Honorable Ken Maddy

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